

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY
V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2005-000821-RMG

REGULATORY PROJECT MANAGER: Rebecca M. Gruber **Date:** March 8, 2005

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** **Y** **Date:** 8 Mar. 2005

At the project site (Y/N) **N** **Date:**

PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Washington

Center coordinates of site by latitude & longitude coordinates:

Lat 43.4256, -88.2359 (NAD 27)

Approximate size of site/property (including uplands) in acres

75 acres

Name or waterway of watershed: Milwaukee River

Wetlands W-3, W-4, W-5, W-8, and W-9

Type of Aquatic Resource ¹ :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: **Preliminary X Or Approved**

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

Nine wetlands were located within the subject property. Of them, five are the basis of this report (wetlands W-3, W-4, W-5, W-8, and W-9). These wetlands sum approximately 0.89 acre in size, and consist of farmed wetland, lowland forest wetland, and fresh wet meadow wetland.

The boundaries of wetlands W-3, W-4, W-5, W-8, and W-9 lie entirely within Section 16 of Township 11N., Range 19E., Washington County, Wisconsin. As such, wetlands W-3, W-4, W-5, W-8, and W-9 are considered intra-state wetlands. Wetlands W-3, W-4, W-5, W-8, and W-9 do not display any connection to, nor are they considered adjacent to (separated by roadway or other anthropogenic structure) any waters of the United States. The nearest connection to any waterway is approximately 400 feet away; therefore, wetlands W-3, W-4, W-5, W-8, and W-9 are considered isolated.

Wetlands W-3, W-4, W-5, W-8, and W-9 are not, nor are they likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetlands lie on private property, with no public access. In addition, wetlands W-3, W-4, W-5, W-8, and W-9 do not contain fish or shellfish which could be taken and sold. For these reasons, no commerce connection to these five wetlands has been established.

As indicated above, four other wetlands were found on site, and were determined to lie within the regulatory jurisdiction of the Corps of Engineers. These four wetlands are part of the tributary system to the Milwaukee River (via unnamed tributaries to Cedar Creek), a navigable water of the United States.